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| Topic: | Subdivision Pre-application Process |
| Resource Type: | Regulations |
| State: | New York |
| Jurisdiction Type: | Municipal |
| Municipality: | Town of Southampton |
| Year (adopted, written, etc.): | 1993 |
| Community Type – applicable to: | Suburban |
| Title: | Article IV Pre-application |
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Abstract

The Town of Southampton, NY requires an in-depth pre-application process for subdivision approval for developers. The zoning code involves detailed steps that requires a lot of information from the developer upfront. The developer is required to set up a fee schedule with the town and may have to pay the town an upfront cost to be held in escrow for any additional clerical or consulting costs incurred during the application process. The subdivision developer must also provide an alternative cluster plan to their development. The planning board is then provided with a sketch map and details about the developer's proposed plans including where the land is located, natural features of the land, existing land restrictions, who owns the land, and other required information. While the process is cumbersome, Southampton is a great example of the authority municipalities have over land use and the extent they can make developers comply with.

Resource

<https://ecode360.com/8697853>

§ 292-7 Purpose.

[Amended 6-26-1993 by L.L. No. 21-1993]

The preapplication shall be required to enable a subdivider to have the benefit of the Planning Board's input as to form, layout, development constraints, zoning, environmental impacts and other issues before making a formal application.

§ 292-8 Submission.

[Amended 4-26-1988 by L.L. No. 3-1988; 6-26-1993 by L.L. No. 21-1993]

A. Any owner of land shall, prior to subdividing or resubdividing land, submit to the office of the Planning Board at least six copies of a preapplication of the proposed subdivision, which shall use the standards set forth in Article as a guide. In addition, a digital copy of all application materials shall be submitted in a format determined, and changed as needed, by the Town Clerk.

[Amended 3-10-2020 by L.L. No. 2-2020]

- (1) In order to assist the Planning Board in determining whether a planned residential development is appropriate for the site, the preapplication shall include at least one alternate cluster plan which complies with the provisions of § 292-11 and Chapter 247 of the Town Code.
- (2) Transfers of property shall be reviewed as a preapplication, where a resolution waiving further subdivision review may be adopted by the Planning Board if it finds that such transfer complies with this definition and is consistent with the intent and purposes of these regulations.

B. A fee schedule shall be established, and changed as needed, by resolution of the Southampton Town Board. A copy of the fee schedule is on file with the Town Clerk's office and the Department of Land Management. In addition to the above-referenced fee schedule, the Planning Board may require an applicant to pay an amount, to be held in escrow and ultimately disbursed, to pay the costs incurred by the Town for all consulting services it may reasonably seek to engage, including, but not limited to: archaeological, engineering, planning, legal and clerical costs incurred in processing and review of a subdivision application. Such amount deemed necessary for escrow shall be reasonably related to costs attendant to the Town's review, and such amount shall be computed by the Planning Board in consultation with the applicant. Further, if such escrow payment is deemed necessary, this fee shall be in addition to and exclusive of any fee(s) properly assessed to the applicant in connection with the SEQRA process.

[Amended 6-12-2001 by L.L. No. 21-2001; 1-27-2004 by L.L. No. 2-2004; 2-27-2007 by L.L. No. 5-2007]

§ 292-9 Public hearing and report.

[Amended 6-26-1993 by L.L. No. 21-1993; 12-27-1994 by L.L. No. 60-1994; 1-27-1998 by L.L. No. 3-1998; 2-27-2001 by L.L. No. 4-2001; 10-23-2001 by L.L. No. 40-2001^[1]; 5-27-2003 by L.L. No. 43-2003]

A. A public hearing on the preapplication shall be held within 45 days of a receipt of a complete submission. Notice of such hearing shall be provided to the subdivider by mail at least 15 days before the hearing.

- (1) The Planning Board shall publish notice of said hearing at least 10 days prior to the scheduled date of the hearing in a newspaper of general circulation. No additional advertisement shall be required for any adjournment date.
- (2) In addition, the subdivider or his/her agent shall erect or cause to be erected a sign which shall be displayed on the parcel upon which the preapplication is made, facing each public street on which the property abuts, giving notice that a preapplication has been made to the Town Planning Board for subdivision approval and stating the time and place where the preapplication hearing will be held. The sign shall not be located more than 10 feet from the street line and shall not be less than two nor more than six feet above the natural grade at the street line. The sign shall be furnished by the Planning Board, and only such sign(s) shall be used. The sign shall be displayed not less than 10 days immediately preceding the preapplication hearing or any adjournment date. The applicant shall file an affidavit with the Planning Board that he/she has complied with the provisions of this section. Failure to submit such affidavit shall result in the adjournment of the preapplication hearing and reposting pursuant to this section.
- (3) For applications that include any portion of land that is shown on the Archaeological Sensitivity Map as identified by the New York State Archaeological Sensitivity Map, the applicant shall be required to mail written notice together with

a copy of the application and survey by certified mail, return receipt requested, to the Tribal Trustees of Shinnecock. Applicant is hereby required to show proof of the mailing prior to any public hearing concerning the affected properties. The mailing of the notice shall be considered jurisdictional, and failure to mail notice along with the application and survey or provide the return receipt will result in the rejection of the application until such time as the mailing requirements have been satisfied. Said notice shall be sent at least 10 days prior to the initial public hearing. Said notices shall be mailed to:

Office of Tribal Trustees of Shinnecock
Post Office Box 5006
Southampton, NY 11969-5006

- (4) For all applications submitted on or after the effective date of this amendment, the applicant shall mail notice of the public hearing date, at least 10 days prior thereto, to every property owner, as shown on the current Town of Southampton assessment rolls, of parcels abutting and/or directly opposite (by way of extension of lot lines through the street right-of-way) the property which is the subject of the public hearing. Such notice shall be by either certified or registered mail, return receipt requested. Proof of such notice shall consist of a copy of the assessment roles, the return receipts, and an affidavit attesting to compliance with this mailing notification. Such proof shall be submitted to the Planning Board prior to the public hearing. No additional mailing shall be required for an adjournment.

[Added 5-22-2007 by L.L. No. 28-2007; amended 1-22-2008 by L.L. No. 5-2008]

- B. The hearing shall take place at a scheduled meeting of the Planning Board, and the subdivider and the public in attendance shall be afforded an opportunity to be heard. The hearing shall address compliance with subdivision regulations, zoning regulations, environmental regulations, proper design criteria and all other applicable standards. The hearing on the preapplication shall be noticed in accordance with the procedures set forth in this chapter and §§ 277 and 278 of the Town Law.
- C. Within 62 days of the completion of the public hearing on the preapplication hearing, the Planning Board shall issue a report which shall determine the following:
- (1) Whether the application shall be processed under the major, minor review or conservation opportunities subdivision procedures set forth in § 292-5, 292-6 or 292-6.1;
 - (2) Whether a standard plat or planned residential development is preferred;
 - (3) Whether the submission complies with applicable standards, policies, regulations and laws;
 - (4) Whether there are any recommendations by the Board which should be incorporated into a formal application; and
 - (5) Any other relevant comment relating to the proposed subdivision.
- D. Nothing shall preclude or bind the Planning Board from issuing or changing its recommendations if new information or a change in circumstances arises at or prior to the next formal application stage. The report of the Planning Board shall be valid for a period of one year from the date of issuance. No further Planning Board action will be taken after such expiration until a new preapplication has been submitted.

[1] *Editor's Note: Section 3 of this local law provided as follows: "This local law expressly supersedes the provisions of § 276-6 of Town Law, wherein a public hearing is required for a final plat where no preliminary plat is required. Certain final plats for minor review will not require a public hearing; rather, the Planning Board will have the option to hold a public hearing based upon the amount of public interest on the project and other similar criteria. If no hearing is required, the Planning Board must still provide public notice of a complete application and allow public comments to be received."*

§ 292-10 Required data.

- A. The sketch plan shall be based on Tax Map information or land survey and other available data, at a scale not less than 200 feet to the inch, to enable the entire tract to be shown on one sheet. The sketch plan shall be submitted, showing the following information:
- (1) The location of sections to be subdivided and their priority in relation to the entire subdivision tract and the distance to the nearest existing street intersection.

- (2) All existing structures, wooded areas, wetlands, lakes, trails, ponds, streams and other significant physical features, including contours at not more than ten-foot intervals in the subdivision and within 200 feet of its boundaries.
[Amended 2-27-1990 by L.L. No. 3-1990; 5-12-1992 by L.L. No. 22-1992]
 - (3) The name of the landowner and subdivider, including members of any corporation or similar agency and any contiguous property held by the landowner seeking subdivision, and the names of all adjoining property owners as disclosed by the most recent Town tax records.
 - (4) The Tax Map sheet, block and lot numbers, if available, or signed land survey.
 - (5) All utilities available and all streets which are either proposed, mapped or built.
 - (6) The proposed pattern of lots, including typical lot width and depth, street layout, recreation areas, method of drainage, sewerage and water supply within the subdivided area.
 - (7) All existing restrictions on the use of land, including easements, covenants or zoning district lines and zoning district.
- B.** A standard subdivision shall conform in all respects to the Table of Dimensional Regulations called for in respective zoning districts of the Town's Zoning Ordinance^[1] and shall also conform to the requirements of the Planning Board's subdivision regulations. The standard subdivision design shall be required in order to determine the proposed number of legal building lots which may be anticipated. The location of a park, satisfying the requirements of the subdivision regulations, shall be shown on the standard subdivision. The standard subdivision design shall exclude the following listed areas from consideration as areas contributing to total lot yield:
- (1) Existing water surfaces.
 - (2) Tidal wetlands or freshwater wetlands as defined in state and local regulations.
[Amended 5-12-1992 by L.L. No. 22-1992]
 - (3) Horizontal areas of escarpments or bluffs or the seaward faces of primary dunes.
 - (4) Beaches below mean high water, as defined by the United States Coast and Geodetic Survey or latest Tidal Wetlands Survey Base Maps, and any beach lying between this line and the unbuildable areas outlined in Subsection B(3) above.
 - (5) Horizontal areas of slopes which exceed a grade of 20% when considered for lots of less size than 40,000 square feet or a grade of 30% when considered for lots of less size than 80,000 square feet.
 - (6) Areas required for park dedication pursuant to the Planning Board's subdivision regulations.
 - (7) Areas required for recharge basins or for natural area recharge.
 - (8) Areas required for streets.
 - (9) Areas required for utilities or public facilities, except that minor utility easements of direct service to the subdivision may be included.

[1] *Editor's Note: See Ch. 330, Zoning.*

§ 292-11 Planned residential development.

[Amended 5-24-1983]

- A.** Where the owner requests or the Planning Board requires an application for planned residential development, said application shall include a map or maps showing the proposed cluster design or designs offered for consideration by the Planning Board, together with a map which shall be prepared for consideration as a standard subdivision conforming to all requirements of the Zoning Ordinance^[1] and subdivision regulations of the Town of Southampton.
- [1] *Editor's Note: See Ch. 330, Zoning.*
- B.** The total building lot yield of the standard subdivision shall be used to determine the yield in the number of building lots which the Planning Board may grant in a planned residential development. A planned residential development design may be prepared for any contiguously owned holdings, whether or not they are separated by an existing street offering direct access to such holdings. In all other cases, the holdings shall be considered as separate parcels. A planned residential development application may be proposed for separate parcels with development rights transferred in total or in part to

one of the parcels, provided that such application satisfies the requisites of and are processed in accordance with the procedures called for in § 330-7 of the Town's Zoning Ordinance. The Planning Board may reject a planned residential development if it finds that the design does not conform to any one of the following requisites:

- (1) The planned residential development must conform to the provisions of Chapter 247 of the Town Code and § 330-9 of the Zoning Ordinance.
- (2) The total building lot yield must conform to the provisions called for herein.
- (3) The arrangement of building lots must be deemed to be environmentally sound with reference to continued aquifer and surface water quality and with reference to unique site features protection.
- (4) Open space arrangement must be significantly beneficial to potential residents of the subdivision or to the public at large, and adequate legal provisions must be provided in order to assure the continuance of the open space arrangement.
- (5) The arrangement of building lots must take into account the characteristics of adjacent external land use arrangement or the layout of approved maps and plans in such a way as to assure a harmonious blending between them or adequate protective buffering between them.

C. The Planning Board may authorize and approve a planned residential development for all subdivision applications, irrespective of the number of lots proposed, provided that the provisions of this section and Chapter 247 of the Town Code are complied with.

[Amended 6-26-1993 by L.L. No. 21-1993]

D. Criteria.

- (1) In addition to the other requirements of this section, the criteria pursuant to which the Planning Board may require an application for a planned residential development are as herein provided.
- (2) An application for a planned residential development may be required in order to perpetuate the existence of or to prevent the despoliation or degradation of the following environmentally sensitive areas or historic places, whether on or off the site:

(a) Environmentally sensitive areas are:

- [1] Tidal waters and wetlands, including lands in the Tidal Wetlands and Ocean Beach Overlay District.
- [2] Watercourses, including freshwater wetlands, permanent courses, marshes, swamps, bogs, permanent and seasonal ponds and lakes.
- [3] Ocean beach dunes.
- [4] Bluffs.
- [5] Beach grass.
- [6] Agricultural lands, including those within the Agricultural Overlay District.
- [7] Natural features such as beaches, woodlands, unique plant and wildlife habitats and important scenic vistas.
- [8] Lands designated as water catchment areas in the Town's Master Plan.
- [9] Lands designated by the Town as critical environmental areas under the Town's Environmental Quality Review Law, in accordance with the State Environmental Quality Review Act.

(b) Historic features and cultural features are:

- [1] Any structure or site on the National Register of Historic Places or the New York State Register for Historic Places.
- [2] Cultural features, including paleontological and archaeological remains, old trails and historic buildings or sites.